

2017 Consent Decree, Settlement Agreement and Court Ordered Deadlines
Selected Agency Actions
2/23/17

Deadline	Type of Action	Type of Deadline	Case name, court & docket number	Lead Office
03/15/2017	<p>Take final action approving SIP or issuing FIP regarding PSD-related infrastructure SIP requirements for Mendocino Air District.</p> <div>Ex. 5 Attorney Client (AC)</div>	Final CD signed and moved court to enter in October 2016; awaiting entry.	<i>Sierra Club v. McCarthy</i> , No. 3:15-cv-04328 (N.D. Cal.)	ARLO/ Region 9

	allows the state to take authority of the PSD program.			
03/15/2017	<p>Take final action approving SIP or issuing FIP to implement PSD requirements for PM2.5 in North Coast Air District (related to infrastructure SIP requirements).</p> <div style="border: 1px dashed black; padding: 20px; text-align: center;"> <p>Ex. 5 Attorney Client (AC)</p> </div>	Final CD signed and moved court to enter in October 2016; awaiting entry.	<i>Sierra Club v. McCarthy</i> , No. 3:15-cv-04328 (N.D. Cal.)	ARLO/ Region 9
03/31/2017	<p>Take final action on rule that proposed to revoke chlorpyrifos pesticide tolerances and respond to plaintiff's 2007 administrative petition.</p> <div style="border: 1px dashed black; padding: 20px; text-align: center;"> <p>Ex. 5 Attorney Client (AC)</p> </div>	Court Order	<i>Pesticide Action Network North America, et al. v. EPA</i> , No. 14-72794) (9th Cir.)	PTSLO

	<div>Ex. 5 Attorney Client (AC)</div>			
03/31/2017	<p>Propose action on Louisiana's regional haze SIP.</p> <div>Ex. 5 Attorney Client (AC)</div>	Court Order	<i>Sierra Club v. Pruitt</i> , No. 1:15cv1555 (D.D.C.)	ARLO/Region 6

	Ex. 5 Attorney Client (AC)			
04/28/2017	Ex. 5 Attorney Client (AC)	Proposed CD has been negotiated; CAA section 113(g) public comment period closed on 2/2/17 (no comments received); ARLO will soon seek concurrence from the Acting General Counsel to move the court to enter the final CD.	<i>Citizens for Clean Air, et al. v. McCarthy</i> , No. 2:16-cv-01594-RAJ (W.D. Wash.)	ARLO

¹ Note, a related case has also been brought against EPA seeking similar attainment determinations and reclassification actions for 10 other 2006 24-hour PM2.5 NAAQS nonattainment areas. *See Center for Biological Diversity, et al. v. McCabe*, No. 3:16cv5492 (N.D. Cal.). EPA already issued a proposed rule addressing all 11 areas, including Fairbanks. (81 FR 91088; Dec. 16, 2016). EPA has entered settlement negotiations in *Center for Biological Diversity, et al. v. McCabe*. For purposes of regulatory and legal efficiency and consistent with EPA's proposed rule, we have offered to plaintiffs the same 4/28/2017 deadline for EPA to take final action during preliminary settlement discussions.

	<p>Ex. 5 Attorney Client (AC)</p>			
<p>05/12/2017 CAA Title V</p>	<p>Respond to petition to object to Title V permit for Scrubgrass Generating Co., which is a power plant in Pennsylvania.</p> <p>Ex. 5 Attorney Client (AC)</p>	<p>Proposed CD has been negotiated; EPA received comments as part of the CAA section 113(g) public comment process; ARLO is determining next steps.</p>	<p><i>Sierra Club v. McCarthy</i>, No. 1:16-cv-01831-EGS (D.D.C.)</p>	<p>ARLO</p>

	petition responses must be signed by the Administrator.			
05/26/2017 CAA Title V	<p>Respond to petition to object to Title V permit for Morgantown Generating Station, which is a power plant in Maryland.</p> <div style="border: 1px dashed black; padding: 20px; text-align: center;"> <p>Ex. 5 Attorney Client (AC)</p> </div>	Proposed CD has been negotiated; CAA section 113(g) public comment process has not yet started.	<i>EIP, et al. v. McCarthy</i> , No. 1:16-cv-01643-CRC (D.D.C.)	ARLO
06/13/2017	<p>EPA shall either (a) approve revised human health water quality standards that Idaho Department of Environmental Quality (IDEQ) has adopted and submitted to EPA; or (b) issue a rulemaking proposal for revised or new human health water quality standards in place of those disapproved by EPA in 2012 or in place of newer standards that may be submitted by IDEQ and subsequently disapproved by EPA.</p> <ul style="list-style-type: none"> Issues involve tribal treaty rights and water quality criteria for protection of human health including fish consumption Stakeholders: State of Idaho and Idaho dischargers, Tribes and NGOs Matter raises general policy issues of application of tribal treaty rights under the 	<p>Settlement Agreement</p> <p><u>HOWEVER</u>, plaintiff has indicated it will not seek to enforce the agreement if the Agency wished to take more time beyond the deadline to make a decision.</p> <div style="border: 1px dashed black; padding: 5px; text-align: center;"> <p>Ex. 5 Attorney Client (AC)</p> </div>	Settlement agreement executed in lieu of plaintiff filing complaint. (Idaho Conservation League sent a 60-day notice to sue EPA for failure to timely propose and promulgate water quality standards following 2012 disapproval of Idaho human health water quality criteria.)	WLO/CCILO with OW, OITA and Region 10

	CWA (also at issue in Maine and Washington State).			
06/30/17	<p>EPA must either (a) approve mercury criteria submitted by the State of California for all or any portion of the state without EPA approved criteria; or (b) propose mercury criteria for all waters in California for which EPA has not approved site specific mercury criteria submitted by California. Mercury criteria are defined as criteria to protect aquatic life and aquatic-dependent wildlife. Such criteria shall be numeric values that EPA determines are protective of the designated uses of all applicable waters pertaining to aquatic life and aquatic-dependent wildlife.</p> <p>Ex. 5 Attorney Client (AC)</p>	Consent Decree	<i>Our Children's Earth Foundation and Ecological Rights Foundation v. EPA</i> , 3:13-cv-2857-JSW (N.D. Cal.)	WLO/Region 9
7/14/2017	<p>Sign a notice of proposed rulemaking setting forth EPA's proposed decision in the current review of the primary NO2 NAAQS.</p> <p>Ex. 5 Attorney Client (AC)</p>	<p>Proposed CD has been negotiated; currently undergoing public comment pursuant to CAA section 113(g) public comment process; deadline for comments is 2/16/17.</p>	<i>Ctr. for Biological Diversity et al. v. McCarthy</i> , 3:16-cv-03796-VC (N.D. Cal.)	ARLO

	public health, so a decision not to revise the standard may be uncontroversial.			
07/31/2017 CAA Title V	Issue final order responding to issues in two sections of a petition to object to a Title V permit for the Alon USA—Bakersfield, California Refinery Facility. Ex. 5 Attorney Client (AC)	Settlement Agreement	<i>Center for Biological Diversity v. EPA</i> , No. 4:16-cv-01946 (N.D. Cal.)	ARLO
12/01/2017	Sign for publication notice of final action on rulemaking for financial assurance requirements under CERCLA 108(b) for the hard rock mining industry. Ex. 5 Attorney Client (AC)	Court Order	<i>In re: Idaho Conservation League, et al.</i> , No. 14-1149 (D.C. Cir.)	SWERLO
12/15/17	EPA must either (a) approve new or revised water quality standards submitted by the State of Missouri addressing EPA's August 16, 2011 disapproval of 10 CSR 20-7.031(3) Specific Criteria (N) Nutrients and	CD	<i>Missouri Coalition for the Environment Foundation v. EPA</i> , 2:16-cv-04069 (W.D. Mo.)	WLO/Region 7

	<p>Chlorophyll; or (b) sign a notice of proposed rulemaking that proposes new or revised water quality standards addressing EPA’s August 16, 2011 disapproval.</p> <div><p>Ex. 5 Attorney Client (AC)</p></div>			
--	--	--	--	--